

REMARKS

Claims 1, 2, 5 and 6 were pending. By this Amendment, Claims 1, and 2 are amended. Support for the claim amendments can be found in the application as originally filed. See e.g., paragraphs [0074]-[0077]. Claims 1 and 2 are now pending. Accordingly, Applicants respectfully submit that no new matter is presented herein.

Election/Restrictions

The Examiner asserts claims 5 and 6 as amended are directed to an invention that is independent or distinct from the invention originally claimed. Specifically, the Examiner asserts that the invention of claims 1 and 2 are related to the invention of claims 5 and 6 as subcombinations disclosed as usable together in a single combination. Initially, as required by MPEP § 818.03(b) (pursuant to 37 CFR § 1.143), Applicants made a provisional election of claims 1 and 2. Further, Applicants respectfully disagree with the restriction requirement.

As noted by MPEP § 806.05(d), "The examiner must show, by way of example, that one of the subcombinations has utility other than in the disclosed combination." "Furthermore, restriction is only proper when there would be a serious burden if restriction were not required, as evidenced by separate classification, status, or field of search." Applicants submit that the mere conclusory statement that the claims have "separate utilities such as being used in different assist transportation methods and devices," is insufficient to meet the Examiner's burden of showing that "one of the subcombinations has utility other than in the disclosed combination." Further, the Examiner has provided no indication as to how examination of all the claims would

provide a serious burden. As such, the Applicants request the Examiner withdraw the restriction requirement and examine claims 1, 2, 5 and 6.

Claim Rejections – 35 U.S.C. §112, 2nd

Claims 1, and 2 are rejected under 35 U.S.C. §112, 2nd paragraph. Applicants have amended the claims in a manner believed to be responsive to the rejection. As such, Applicants respectfully request withdrawal of the rejection.

Claim Rejections – 35 U.S.C. §102

Claim 1, and 2 are rejected under 35 U.S.C. §102(b) as being unpatentable over U.S. Published Patent Applicant Number 2002/0017433 to Nakashima et al. (Nakashima). Applicants respectfully traverse the rejections for at least the following reason(s).

To qualify as prior art under 35 U.S.C. §102, each and every feature of a rejected claim must taught by the applied art of record. Claims 1 and 2 each recite, among other features, “computing a reaction force using the detected displacement value due to the impact” and “computing a subtraction force by subtracting the reaction force from an assist driving force generated by a motor.” Applicants respectfully submit that Nakashima fails to teach or suggest such features.

The Examiner asserts that the above features are taught by Nakashima and cites Nakashima, paragraph [0042] as support. Contrary to the Examiner’s assertion, the cited passage neither discloses nor suggests the invention. The cited paragraph discloses “limit switches for detecting a position of the detection arm” while making no

reference to computing a reaction force and/or computing a subtraction force associated with the computed reaction force as is recited in the claim language.

In the Office Action dated November 11, 2009, the Examiner responds to the previously raised argument by asserting that “a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art. ... If the prior art structure is capable of performing the intended use, then it meets the claim.” Initially, Applicants note no reference to authority is provided for such a statement. Further, Applicants contend, as noted above, that for a prior art reference to anticipate, 35 U.S.C. §102 requires that “each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (quoting Verdegaal Bros., Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). Contrary to the Examiner’s assertion the cited reference is silent with respect to “computing a reaction force using the detected displacement value due to the impact” and “computing a subtraction force by subtracting the reaction force from an assist driving force generated by a motor,” and as such neither discloses nor suggests claims 1 or 2.

For the reason(s) provided above, Applicants respectfully submit that Nakashima does not anticipate or render obvious the invention recited by Claims 1 and 2. Accordingly, Applicants respectfully submit that Claims 1 and 2 should be deemed allowable over Nakashima. As such, Applicants respectfully request withdrawal of the rejections.

Conclusion

In view of the above, reconsideration of the application, withdrawal of the outstanding rejections, allowance of Claims 1 and 2 and the prompt issuance of a Notice of Allowance is respectfully requested.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing Attorney Docket Number 028359.00001.**

Respectfully submitted,


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